

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

REUBEN MCDOWELL,

Plaintiff,

9:07-CV-0500
(LEK/DRH)

v.

JOSEPH BEARER; JOE GRECO; JOHN DOE;
and ROBERT LAHART,

Defendants.

APPEARANCES:

REUBEN MCDOWELL
07-A-0885
Plaintiff, *Pro se*

LAWRENCE E. KAHN, United States District Judge

DECISION AND ORDER

Plaintiff Reuben McDowell commenced this action on May 10, 2007 by filing a civil rights complaint, together with an application to proceed *in forma pauperis*. Dkt. Nos. 1 & 2.

Plaintiff did not submit an inmate authorization form.

By Order of this Court filed June 13, 2007, Plaintiff was directed to submit either the full filing fee of \$350.00, or a signed authorization form consenting to payment of \$350.00, within thirty (30) days of the June Order.¹ Dkt. No. 4. Plaintiff was warned that if he failed to do so, his action would be dismissed without further Order of this Court.

¹ The Prison Litigation Reform Act ("PLRA"), 28 U.S.C. § 1915(b), provides that an inmate who seeks *in forma pauperis* status is required to pay over a period of time the full amount of the filing fee provided for in 28 U.S.C. § 1914(a), which is currently \$350.00 for most civil actions. Additionally, the Northern District of New York requires all inmates to sign a fully completed and properly certified *in forma pauperis* application and the authorization form issued by the Clerk's Office. See Rule 5.4(b) of the Local Rules of Practice of the Northern District ("L.R. 5.4(b)").

Plaintiff has now submitted an authorization form consenting to payment of \$350.00. Dkt. No. 7. The Court may properly consider Plaintiff's *in forma pauperis* application.

After reviewing the entire file herein, including Plaintiff's *in forma pauperis* application and completed inmate authorization form, the Court finds that the Plaintiff may properly proceed with this matter *in forma pauperis*.

The Court notes that Plaintiff has asserted claims against "John Doe" defendants in this action. Plaintiff is advised that the U.S. Marshals cannot effect service on a "John Doe" defendant. In the event that Plaintiff wishes to pursue this claim against these defendants, he shall take reasonable steps to ascertain their identities. Plaintiff may then file a motion to amend his complaint and seek leave of the Court to add such individuals, by name, as defendants to this lawsuit. Plaintiff is further advised that if these individuals are not timely served, this action will be dismissed as against them.

WHEREFORE, it is hereby

ORDERED, that Plaintiff's *in forma pauperis* application is granted.² The Clerk shall issue summonses and forward them, along with a copies of the complaint, to the United States Marshal for service upon the named Defendants. The Clerk shall forward a copy of the summons and complaint by mail to the Office of the Attorney General for the State of New York, together with a copy of this Order, and it is further

ORDERED, that the Clerk provide the Superintendent of the facility designated by

² Plaintiff should note that although the application to proceed *in forma pauperis* has been granted, Plaintiff will still be required to pay fees that he may incur in this action, including copying and/or witness fees.

Plaintiff as his current location with a copy of Plaintiff's authorization form, and notify the official that this action has been filed and that Plaintiff is required to pay the entire statutory filing fee of \$350.00 pursuant to 28 U.S.C. § 1915, and it is further

ORDERED, that the Clerk provide a copy of Plaintiff's authorization form to the Financial Deputy of the Clerk's Office, and it is further

ORDERED, that a formal response to Plaintiff's complaint be filed by the Defendants or their counsel as provided for in Rule 12 of the Federal Rules of Civil Procedure subsequent to service of process on the Defendants, and it is further

ORDERED, that all pleadings, motions and other documents relating to this action shall be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk shall be accompanied by a certificate setting forth the date a true and correct copy of it was mailed to all opposing parties or their counsel. Any letter or other document received by the Clerk or the Court which does not include a certificate of service which clearly states that an identical copy was served upon all opposing parties or their attorneys is to be returned, without processing, by the Clerk, to the party that sent it.** Plaintiff shall also comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in the filing of motions, which are to be made returnable before the assigned Magistrate Judge on any business day with proper allowance for notice as required by the Rules. **Plaintiff is also required to promptly notify the Clerk's Office and counsel for the Defendants of any change in his address; his failure to do so will result in the dismissal of this action.** All motions will be decided on submitted papers, without oral argument, unless

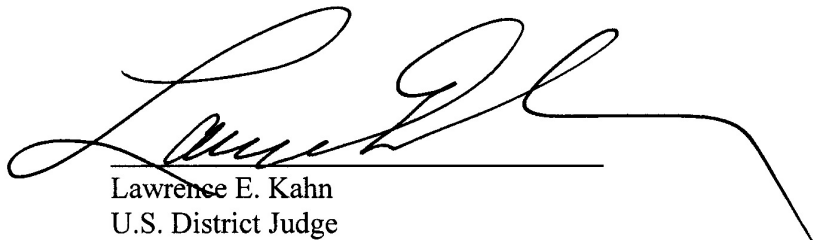
otherwise ordered by this Court, and it is further

ORDERED, that the Plaintiff take reasonable steps to ascertain the identities of any other individual(s) that purportedly violated Plaintiff's civil and/or constitutional rights and, if appropriate, file a motion to amend his complaint and add such individuals, by name, as defendants to this lawsuit, and it is further

ORDERED, that the Clerk serve a copy of this Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: July 09, 2007
Albany, New York



Lawrence E. Kahn
U.S. District Judge